

ORDINANCE NO. 3-2011

AN ORDINANCE OF THE TOWN OF CRAWFORD, COLORADO, ADDING A NEW ARTICLE II TO CHAPTER 6 OF THE CRAWFORD MUNICIPAL CODE TO PROVIDE FOR THE PROHIBITION OF THE ESTABLISHMENT AND OPERATION OF CERTAIN MEDICAL MARIJUANA BUSINESSES WITHIN THE TOWN OF CRAWFORD UNDER AUTHORITY CONFERRED BY C.R.S. 12-43.3-101 *ET SEQ.*, AND DECLARING SUCH BUSINESSES TO BE NUISANCES UNDER EXISTING NUISANCE ORDINANCES OF THE TOWN OF CRAWFORD

Recitals

WHEREAS, in November of 2000, Colorado voters approved Amendment 20 adding Article XVIII, Section 14 to the Colorado Constitution, which Amendment authorizes the possession and use of limited quantities of marijuana by qualified patients and primary care-givers as part of medical therapies; and

WHEREAS, changes in federal drug enforcement policies with respect to the cultivation, sale, and distribution of marijuana for medical purposes which might be permissible under state law led to the operation of marijuana "dispensaries" engaging in activities in various communities in the State of Colorado, which activities are outside the scope of Amendment 20; and

WHEREAS, on or about December 2, 2009, the Board of Trustees of the Town of Crawford, Colorado, in an exercise of the town's police powers, adopted ordinance No. 1-2009 which declared a moratorium upon the licensing, permitting and operation of new businesses within the territorial limits of the Town of Crawford that deal in marijuana and products containing marijuana used for medical purposes, which moratorium was extended to July 1, 2011, by the adoption on June 2, 2010, of Ordinance No. 1-2010; and

WHEREAS, the Colorado General Assembly adopted House Bill 10-1284 known as the Colorado Medical Marijuana Code ("the Code"), codified as Colorado Revised Statutes, 12-43.3-101 *et seq.*, which authorizes local governments, including statutory towns, to prohibit certain activities involving the cultivation and sale of medical marijuana and the manufacturing of medical marijuana-infused products; and

WHEREAS, the Board of Trustees of the Town of Crawford has determined that the expansion of medical marijuana business operations beyond that which is contemplated and allowed by Amendment 20 to the Colorado Constitution would be adverse to the public health, safety and welfare if not properly regulated and licensed as required by the Code; and

WHEREAS, one business is presently operating as a medical marijuana center within the territorial limits of the Town of Crawford and, although operation of such business has been tolerated while Colorado legislation on the issue of the legality of such operations was being debated, enacted and implemented, the Town of Crawford has not licensed or otherwise authorized the operation of such business or waived its right to regulate or even prohibit the continuation of that business pursuant to authority granted to the Town in the Code; and

WHEREAS, in any event, existing and prospective medical marijuana businesses in Crawford, Colorado, are subject to all local legislation which properly invokes the Town's police power, including the power to declare and abate nuisances; and

WHEREAS, the Board of Trustees has by its adoption of Ordinance No.2-2011, has called for the submission of the question of allowing medical marijuana activities, subject to licensing and regulation, to a vote of the electors of the Town of Crawford at its municipal election to be conducted April 3, 2012.

Ordinance Provisions

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CRAWFORD, COLORADO AS FOLLOWS:

SECTION 1. A new Article II of Chapter 6 "Certain Medical Marijuana Businesses and Operations Prohibited", shall be added to the Crawford Municipal Code to provide as follows:

ARTICLE II

Certain Medical Marijuana Businesses and Operations Prohibited

Sec. 6-2-110 Authority for Action and Local Option Reserved.

(a) The Colorado Medical Marijuana Code ("the Code"), codified as Colorado Revised Statutes, 12-43.3-101 *et seq.* authorizes the Town of Crawford to prohibit, by the affirmative vote of the Board of Trustees or by the affirmative vote of the electors of the Town, certain business activities involving the cultivation and sale of medical marijuana, and the manufacturing of medical marijuana-infused products as defined in the Code.

(b) The Town of Crawford has authority to regulate activity within in the Town of Crawford for the protection of the health, safety and welfare of the inhabitants of the Town and to declare certain activities to be nuisances subject to abatement as provided by C.R.S. 31-15-401(c) and Chapter 7 of the Crawford Municipal Code.

(c) The Town of Crawford reserves unto itself and unto its registered electors the Local Option to allow and license medical marijuana activities pursuant to C.R.S. 12-43.3-106 notwithstanding the adoption of this ordinance. The Town assumes no responsibility for monetary damages which might result from the forced closure of a medical marijuana business presently operating under interim provisions of the Colorado Medical Marijuana Code.

Sec. 6-2-120 Definitions - Terms used in this Article shall be given their plain meaning when not otherwise given explicit meaning in this Sec. 6-2-120. As used in this Article, the following words and phrases shall be construed with the following meanings:

(a) The term "marijuana" or "useable form of marijuana" (sometimes spelled "marihuana" or referred to by the scientific name of "*cannabis sativa*") and the terms "medical use", "patient" and "primary care-giver" shall have the same meaning as those terms are defined by said Article XVIII, Section 14(1) of the Colorado Constitution.

(b) The terms "medical marijuana", "medical marijuana center", "medical marijuana-infused product", "medical marijuana-infused product manufacturer" and "optional premises cultivation operation" shall have the same meaning as those terms are defined by C.R.S. 12-43.3-101 *et seq.*, as supplemented by any regulations lawfully adopted by authority of said Colorado statutes.

(c) "patient" means any individual permitted to lawfully purchase, receive and use medical marijuana in accordance with the terms of section 14, Article XVIII of the Colorado Constitution.

(d) "person" shall mean any natural person, partnership, association, company, corporation, limited liability company or other organization or entity, and shall include a manager, agent, owner, officer or an employee of such organization or entity.

(e) "possess or possession" shall mean having physical control of a pertinent substance or product controlled by this section, or control of the premises in which such substance or product is located or having the power and intent to control such substance or product, without regard to whether the one in possession has actual ownership of such substance, product or premises. Possession may be held by more than one person at a time. Direct consumption or use of the pertinent substance or product is not required for purposes of determining its possession.

(f) "Primary Care-giver" means a person, other than a patient and the patient's physician, who is eighteen years of age or older, who may lawfully engage or assist no more than five such patients at any given time in the provision and use of medical marijuana. When this relationship exists, the Primary Care-giver shall bear a significant responsibility for managing the well-being of his or her patients permitted to use medical marijuana by virtue of a debilitating medical condition.

(g) "produce or production" means (a) all phases of growth of marijuana from seed to harvest, (b) combining marijuana with any other substance for sale or distribution, including storage and packaging for resale, and (c) preparing, compounding, processing, and encapsulating, packaging, or re-packaging, labeling or re-labeling of any marijuana or its derivatives whether alone or mixed with any amount of any other substance or product.

(h) To the extent that the definition of any term set forth above is inconsistent or in conflict with the definition of the same term provided in C.R.S. 12-43.3-101 *et seq.* the statutory definition shall prevail. The statutory definition of any term contained in the Colorado Medical Marijuana Code shall apply verbatim to this Article II unless otherwise expressed or reasonably implied herein.

Sec. 6-2-130 General Prohibitions and Related Exceptions.

(a) No license to establish, operate, continue to operate or permit to be operated any medical marijuana center, optional premises cultivation operation or medical marijuana-infused products manufacturer shall be approved or issued by the Town of Crawford.

(b) No person shall maintain any such business or operation or any other enterprise engaged in the possession, use, cultivation, production, sale or distribution of marijuana or marijuana products other than those which are properly conducted by patients and primary care-givers as expressly allowed by, and specifically conforming with, the provisions of Article XVIII, Section 14 of the Colorado Constitution and any related State laws and regulations.

(c) The overall intent of this Section is to exercise fully the Town's local option allowed under C.R.S. 12-43.3-106. No intent to deprive or limit the rights of medical marijuana patients and their primary care-givers established under section 14 of Article XVIII of the Colorado Constitution, or under any related State law and regulations, shall be inferred from this Section.

Sec. 6-2-140 Declaration of Nuisance. Any business in the limits of the Town of Crawford which conducts the cultivation, manufacture, harvest, sale, use or distribution of marijuana or marijuana products in any form, other than as may be authorized for patient care-providers under Article XVIII, Section 14 of the Colorado Constitution, is hereby declared to be an ongoing nuisance subject to abatement pursuant to C.R.S. 31-15-401 *et seq.* and Chapter 7 of the Crawford Municipal Code.

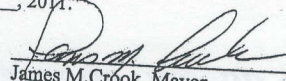
Sec. 6-2-150. Violations and Enforcement Remedies.

Any violation of section 6-2-120 by any person or entity may be referred by the Town for appropriate criminal prosecution by the Seventh Judicial District Attorney pursuant to pertinent provisions of C.R.S. 12-43.3-101 *et seq.* Any such violation may also be pursued as a public nuisance subject to abatement pursuant to C.R.S. 31-15-401 and Chapter 7 of the Crawford Municipal Code.

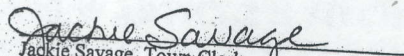
SECTION 2. APPLICABILITY, EFFECTIVE DATE AND INTERIM EXTENSION OF CITY-WIDE MORATORIUM. This Ordinance shall apply to all real property and persons within the Town of Crawford, Colorado. The effective date of the new Article II of the Crawford Municipal Code adopted by this Ordinance shall be the date of final adoption of regulations by the Colorado State Medical Marijuana Enforcement Division of the Colorado Department of Revenue or July 1, 2011, whichever occurs first; except that the provisions of Section 6-2-130(b) and 6-2-140 shall take effect on July 1, 2011. It is expressly provided, however, that the Town's moratorium created by Ordinance 1-2009 and extended by Ordinance No. 1-2010 shall remain in full force and effect in the interim and is hereby expressly extended until the time said Article II becomes effective, at which time said moratorium shall be deemed to expire.

SECTION 3. SEVERABILITY. The provisions of this entire Ordinance are deemed necessary to preserve the public health, safety and welfare of the residents of Crawford, Colorado and are intended to cover matters of local municipal concern under authority of C.R.S. 12-43.3-101 *et seq.* If any part or provision of this Ordinance is found to be unconstitutional or illegal by any Court of competent jurisdiction, it shall be deemed severed from the remainder of the Ordinance which shall continue in full force and effect.

APPROVED AND ADOPTED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF CRAWFORD, COLORADO, THIS _____ DAY OF _____, 2011.


James M. Crook, Mayor

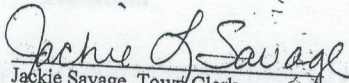
ATTEST:


Jackie Savage, Town Clerk

CERTIFICATION

The undersigned, Jackie Savage, as the Town Clerk of the Town of Crawford, Colorado, does hereby certify that the foregoing is a true and correct copy of Ordinance No B-2011 adopted by the Board of Trustees of the Town of Crawford, Colorado, at a regular meeting held on February 2, 2011, and that the same was duly published according to law on Feb 3, 2011.

Dated this 2 day of February, 2011.


Jackie Savage, Town Clerk